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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,795	03/18/2004	Kenji Hayashi	MLPO:004	5606
37013	7590	12/15/2005	EXAMINER	
ROSSI, KIMMS & McDOWELL LLP. P.O. BOX 826 ASHBURN, VA 20146-0826			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Office Action Summary	Application No. 10/803,795	Applicant(s) HAYASHI ET AL.	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 13 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 8-12 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20040520, 20040823, 20050407</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement filed August 23, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the foreign documents were provided with no English translation, and thus, not considered and crossed out by the Examiner. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The following claims have been rejected in light of the specification, but rendered the broadest interpretation as construed by the Examiner [MPEP 2111].

Claim Objections

4. Claims 8 and 14 are objected to because of the following informalities: Applicant recites the limitation, "a control device [means] for controlling said light axis adjuster [adjusting means] based on results of detection of said inclined state detector [detecting means] and said abnormality detector [detecting means]", is considered redundant with respect to the last limitation in the claims and lacks antecedent basis with respect to the abnormality detector [detecting means] being recited afterwards. Applicant is encouraged to delete the limitation within the claims. Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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5. Claims 1 and 13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 2, 7, 15 of U.S. Patent No. 6870319 in view of Claims 1-9 of Kayano et al. (U.S. Patent No. 6618323). As shown below, the combination of the Claims of the two Patents are an obvious teaching over Claims 1 and 13 of the current application, whereby all structural limitations are satisfied:

Current Application	U.S. Patent 6870319 Claims satisfying limitation	U.S. Patent 6618323 Claims satisfying limitation
Light axis adjuster for headlamp	2, 15	1, 9
Operating state detector	7	7, 8
Inclined state detector	2	1, 9
Abnormality detector	X	1-8
Control device	2	1

6. Applicant is advised that should Claim 1 be found allowable, Claim 13 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

7. Claim 14 is objected to under 37 CFR 1.75 as being a substantial duplicate of Claim 8. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

8. Claims 1-4, 7, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kayano et al. (JP 2003025905 A) in view of Kimura et al. (JP 2000318514 A).

9. With regard to Claims 1-4 and 13, Kayano discloses a light axis adjusting apparatus for a vehicle headlamp including:

- A light axis adjuster/means [Drawings 6, 7, 9: (21)] for adjusting a light axis of the headlamp of a vehicle [Drawings 1-2: (5)];
- An operating state detector/means [Drawing 7: (23); Paragraph 30; Drawing 9: (S11)] for detecting an operating state of the vehicle;
- An inclined state detector/means [Drawing 3: (6)] including at least one ultrasonic wave transmitter [Drawing 3: (9)] and at least two receivers [Drawing 3: (10, 11)] for receiving an ultrasonic signal from said transmitter, said inclined state detector being adapted to detect an inclined state of the vehicle relative to a road surface based on a receiving time difference between respective receivers [Paragraph 20]; and
- A control device/means [Drawings 1, 7: (7)] for controlling said light axis adjuster.

Kayano does not specifically teach an abnormality detector/means for detecting an abnormality of said inclined state detector based on a received state of the ultrasonic signal, such that the control device controls said adjuster based on results of detection of the inclined state detector and said abnormality detector (re: Claims 1 and 13); said abnormality detector determining the abnormality of said inclined state detector when

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intensity of said ultrasonic signal received is not higher than a predetermined specified value which has been preset (re: Claim 2); said inclined state detector is composed of two ultrasonic sensors, each of said sensors consisting of a transmitter and a receiver, and said abnormality detector determines the abnormality of said inclined state detector when a deviation between a transmitting-receiving time difference of the ultrasonic signal in one of said ultrasonic sensors and a transmitting-receiving time difference of the ultrasonic signal in the other of said ultrasonic sensors is not smaller than a predetermined specified value which has been preset (re: Claim 3); nor teaches said abnormality detector determining the abnormality of said inclined state detector when an amount of change or a rate of change of the inclined state of the vehicle is not smaller than a predetermined specified value which has been preset (re: Claim 4).

Kimura teaches a vehicle headlamp optical axis adjusting device including a controller/abnormality detector [Drawing 1: (5)] utilizing two ultrasonic sensors [Drawing 1: (3, 4)], each of which has a transmitter and receiver [Paragraph 4], in determining an inclination or tilt angle of the vehicle [Paragraph 6]. Kimura further teaches the controller determining road surface conditions/abnormalities via intensity, duration, or change in inclination state of the vehicle of the ultrasonic signals of said sensors [Paragraphs 8-11] being greater than a predetermined specified value [Paragraphs 13-15].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the light axis adjusting apparatus of Kayano to incorporate the abnormality detector/means, as principally taught by Kimura, in order to efficiently utilize

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the adjuster and ensure the light axis of the headlamp be adjusted appropriately to a road surface.

10. With regards to Claim 7, Kayano in view of Kimura discloses the claimed invention as cited above. In addition, Kayano teaches said vehicle being a truck [Drawing 1] furnished with a cab [Drawing 1: (3)] and a frame [Drawing 2: (2a, 8)] where said cab is disposed; and said inclined state detector is placed on said cab or vehicle front portion of said frame [Drawings 1-2].

Allowable Subject Matter

11. Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: With regard to Dependent Claims 5-6, the Applicant has sufficiently claimed and defined an adjusting apparatus for a vehicle headlamp incorporating a display device or cleaning device, in combination with the control device, that responds to an abnormality found by the abnormality detector. The prior art fails to teach or suggest the combination of structural elements disclosed and claimed herein.

13. Claims 8-12 would be allowed, given appropriate resolution to the objection above for Claim 8.

14. The following is an examiner's statement of reasons for allowance: With regards to Independent Claim 8, the Applicant has sufficiently claimed and defined an adjusting apparatus for a vehicle headlamp incorporating a display device, in combination with a

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control device, that responds to an abnormality found by the abnormality detector. The prior art fails to teach or suggest the combination of structural elements disclosed and claimed herein, and all subsequent dependent claims are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited to further show the state of the art, but are not considered exhaustive:

US Patent 4630226 to Tanaka;

US Patent 4722547 to Kishi et al;

US Patent 6480806 to Bilz et al.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (12/12/2005)


Stephen Husar
Primary Examiner